

1 information that we have is that the petition
2 that I was referring to was filed on June 13,
3 2002.

4 A. Yeah.

5 Q. So about a year and a month ago.

6 A. Okay. Up until Mr. Brzycki's
7 departure, he was communicating with Vermont, and
8 he would occasionally give me an update on
9 anything that was problematic in Vermont.
10 Anyway, once he departed, I had to get more in
11 tune. There was a note in our file from Sara
12 Hoffman. It said "Dear Mr. Kintzel. Here is the
13 board's order and stipulation. If you have any
14 questions, feel free to call me". This was
15 written on November 26, 2002. I think this is
16 the time that it really came onto my plate. Up
17 until Mr. Brzycki left, which was the end of
18 October, he would have been the one communicating
19 with Vermont. And he would be sending me a note
20 here and there on, "Here's what is going on."
21 But then during that time, my brother was on sick

1 leave, so I was not only trying to work with
2 external, but I was working with internal. I was
3 preparing for Mr. Brzycki's departure. My
4 biggest problem at that point was sorting through
5 this EEOC crisis that we also had going on.

6 Q. That was the crisis of the moment?

7 A. That was the crisis, right. So, Mr.
8 Brzycki sent me a note on Vermont, which we had
9 200 customers, I think, out of nearly 50,000 -- a
10 very small percentage. So it was like, "All
11 right, thank's for telling me." Back to the
12 crisis. Once he was gone, then it became, "Okay,
13 Miss Hoffman, now what is this, what have we
14 entered into?" I guess this would be the date
15 that I really became aware of it. I may have
16 known of it before, but this is November 26, to
17 answer your question in a long-winded way.

18 Q. Okay. So in terms of really focusing
19 on the fact that Business Options had a problem
20 of some kind with the state of Vermont, you're
21 indicating that it wasn't until November of

1 2002 -- late November of 2002 that you were
2 really focused on what the problem was?

3 A. Right. By that time, it was really
4 too late. We had already signed a stipulation to
5 depart the state.

6 Q. And also what you were saying was that
7 because there was roughly 200 customers involved,
8 that it didn't present the type of crisis that
9 might have otherwise led to your greater
10 involvement. So, basically the Vermont
11 situation, you let Mr. Brzycki handle?

12 A. Yes. Because, really, it was his job
13 to handle things like that. Because it's like,
14 "Here's the project for you, Bill." It was
15 anything that came in like this -- that was what
16 he was doing, especially since he had been
17 demoted from vice president of administration.
18 He was only doing regulatory affairs.

19 Q. So with respect to the final
20 stipulation or resolution with all outstanding
21 matters --

1 A. Yes.

2 Q. -- that was signed by Mr. Brzycki that
3 was signed on September 12, would I be accurate
4 in understanding that Mr. Brzycki had the
5 authority to sign on behalf of Business Options
6 at that time?

7 A. Yes, he was an officer of the company.

8 Q. An officer in the managerial sense, if
9 you will, that he had an area of responsibility
10 and this fell within his area of responsibility?

11 A. Yes.

12 Q. He wasn't a corporate officer, though;
13 was he; from the standpoint of --

14 A. Yes, he was.

15 Q. Oh, he was?

16 A. Yes. He was secretary/treasurer of
17 the company.

18 Q. Oh, okay.

19 A. That's my recollection. I would --

20 MR. HAWA: He was the vice president?
21 Or, no, not at that time.

1 A. He was still listed as a corporate
2 officer. I mean, this was what his duty was. I
3 could go back to the corporate books, but that's
4 my recollection -- that he was
5 secretary/treasurer and had the authority to do
6 that. And I would guess that he probably showed
7 me the stipulation, and I probably read and just
8 said, "Okay, fine."

9 Q. Again, with the thought being that
10 there were so few customers involved --

11 A. Yes.

12 Q. -- that it didn't present the kind of
13 problem that it might have otherwise caused
14 you --

15 A. Yes.

16 Q. -- either greater heartburn or greater
17 involvement?

18 A. Right.

19 Q. Now, other than Mr. Brzycki, would he
20 have been involved in negotiating with the state
21 of Vermont by himself, or would there have been

1 somebody else at Business Options who would have
2 been involved with the process?

3 A. It would have been totally Mr.
4 Brzycki. And prior to signing anything, he would
5 have run it by myself and potentially myself and
6 Keanan. But, no, he would have totally been
7 negotiating back and forth with Vermont.

8 Q. So you would not have been involved in
9 negotiations with Vermont?

10 A. No.

11 Q. And other than -- I mean, you've
12 referenced the fax from Sara Hoffman.

13 A. Yes.

14 Q. Was that your first contact with Sara
15 Hoffman?

16 A. I don't know.

17 Q. It's conceivable that you had some
18 contact with Sara Hoffman before late November of
19 2002 --

20 A. Yes.

21 Q. -- that you don't remember?

1 A. Correct.

2 Q. To your understanding, did there come
3 a time when Business Options, Inc. stopped
4 providing long-distance service in Vermont?

5 A. Yes.

6 Q. And do you have any recollection as to
7 approximately when that may have occurred?

8 A. I believe we stopped billing our
9 customers in March of 2002.

10 Q. Do you mean 2003?

11 A. No, 2002.

12 Q. You stopped billing in March of 2002?

13 A. Yes.

14 Q. So --

15 A. We continued to service the customers,
16 meaning we gave them long-distance, but I don't
17 think we billed anybody after that point. Maybe
18 it was April, but sometime in the fall -- I'm
19 sorry -- in the spring of 2002.

20 Q. Why did you stop billing customers
21 that early?

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1 A. I don't know. This is just my
2 recollection; I may be incorrect. I think we
3 were asked to, though. Your earlier question is
4 what prompted all this. It seems to me -- and
5 this is just from my recollection -- that we
6 didn't file an annual report or something we were
7 supposed to do, and that started this whole chain
8 of events. I may be incorrect on that, but --

9 Q. What you're saying is that there was a
10 period of time before this petition was filed
11 that Business Options had stopped billing its
12 customers in Vermont?

13 A. Yes. Okay. Here it is.

14 MR. HAWA: I think you have a copy of
15 this. It's contained in the documents.

16 A. On May 9, a letter was sent to Billing
17 Concepts, USBI. And at that point, we stopped
18 billing Vermont customers.

19 Q. So what you're looking at is a letter
20 from who to who?

21 A. It's from Vermont to Billing Concepts.

1 Q. And Vermont is telling Billing
2 Concepts, which is the same as USBI --

3 A. Yes.

4 Q. -- to stop billing on behalf of
5 Business Options?

6 A. Yes.

7 MR. HAWA: May 9, 2002.

8 Q. Okay. When did this come to your
9 attention? When did it come to your attention
10 that you were providing free service to customers
11 in Vermont?

12 A. About a year later, since all this
13 came out. It was eye-opening.

14 Q. I would think so.

15 A. Yeah.

16 MR. HAWA: Well, 200 customers -- it's
17 really not that much money.

18 MR. SHOOK: I guess that depends on
19 how many long-- distance calls they made.

20 A. Yeah. So your question was, when did
21 we stop providing service. We stopped providing

1 billing service in May, meaning that every
2 customer that was on our service was getting free
3 service from that point forward. Then toward the
4 end of December, 2002 is when any customers that
5 were left with us -- a disconnection of service
6 letter was sent on their behalf.

7 Q. Subsequent to December of 2002, has
8 Business Options resumed providing long-distance
9 service to anybody in Vermont?

10 A. Are you saying since that time?

11 Q. Right, since December of 2002.

12 A. Not to my knowledge.

13 Q. Would that also be true of the other
14 company names that we have mentioned --

15 A. Yes.

16 Q. -- like Buzz Telecom --

17 A. Yes.

18 Q. -- U.S. Bell --

19 A. Yes.

20 Q. -- Link?

21 A. Yes.

1 Q. You're out of Vermont.

2 A. Yes, to the best of my knowledge.

3 Q. Now, the final stipulation that was
4 signed off on Mr. Brzycki in September of 2002.
5 Do you have any recollection as to approximately
6 when it was when you first looked at this
7 document?

8 A. This is the stipulation.

9 Q. Right, I can show you here what I am
10 looking at, you've got your own copy, I'm sure.

11 A. Yea. That's the one that I had that
12 Vermont had resend to me at the end of November,
13 so I guess my answer would be the same as before.
14 I may have read it when Mr. Brzycki was signing
15 off on it; but when I really got it, was at the
16 end of November.

17 Q. With that fax that Sara Hoffman --
18 Sara Hoffman sent this to you by fax in November
19 of 2002.

20 A. Yes. That was November 26.

21 Q. Okay.

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1 A. At that point, I took over what Mr.
2 Brzycki -- not really took over, but got more
3 involved in what he was working on.

4 Q. Now, once the fax was sent to you in
5 November of 2002, did you ever direct anybody to
6 insure that the matters that were agreed to in
7 the stipulation were in fact carried out by
8 Business Options, Inc.

9 A. Miss Dennie.

10 Q. Miss Dennie.

11 A. Yes.

12 Q. There was an order that was entered by
13 the state of Vermont Public Service Board on
14 November 7, 2002.

15 A. Okay. I'm looking at it.

16 Q. Could you tell us approximately when
17 it was that you became aware that this order had
18 been issued?

19 MR. HAWA: Objection. The question
20 has been asked and answered.

21 Q. I think I asked before about the

1 petition, if the order was included.

2 A. I may have misstated then. Oh, it's
3 the same fax.

4 Q. It came in the same fax?

5 A. Yes.

6 Q. The November 26 fax?

7 A. Yes.

8 Q. All right. Did you read through the
9 order?

10 A. I believe so.

11 Q. Just so we are clear we are talking
12 about the same thing, the order I am looking at
13 goes on for eight pages and on page eight it
14 bears the signatures of apparently three persons
15 who are with the Public Service Board of Vermont.

16 A. Yes, that's the one I'm looking at.

17 Q. And, on pages one through seven,
18 there's all sorts of legal stuff.

19 A. Yes.

20 Q. And at some point you read through
21 this document and managed to stay awake?

1 A. Yes.

2 Q. Now, I want to direct your attention
3 to page three of the order; specifically,
4 paragraph six.

5 A. Yes. I may have had a
6 misunderstanding on what an order is like this.
7 I didn't know that it was something that -- I
8 didn't sign it -- it was an agreement that was
9 factual and I don't know if I should have sent
10 something over to disagree with exactly what it
11 said. All I agreed to was the final stipulation
12 for resolution. I guess what I've agreed to is
13 the final stipulation. And sitting here today I
14 don't necessarily know what this document -- what
15 it has to do with anything.

16 Q. Well, let's see if we can figure it
17 out together. The first six pages appear to be
18 some tentative findings made by a hearing officer
19 named Greg C. Favor.

20 A. Okay.

21 MR. HAWA: If you could, I think

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1 that's not responsive to what Kurtis was saying.
2 He is saying he was aware of the finding and
3 stipulation --

4 MR. SHOOK: I understand.

5 MR. HAWA: -- and the order that was
6 ultimately issued is --

7 MR. SHOOK: Right, something that he
8 didn't agree to, and I'm not suggesting that he
9 did.

10 MR. HAWA: Fine, so I guess for our
11 purposes we should probably compare the
12 stipulated items in what ultimately appeared in
13 the order.

14 MR. SHOOK: Well, the stipulation came
15 out, it was signed apparently a month and a half
16 prior to the issuance of this order --

17 MR. HAWA: Right.

18 MR. SHOOK: -- and I'm just trying to
19 get an understanding of the assertions that are
20 made in the order and what is it that Mr. Kintzel
21 knew about the matters referenced, if anything.

1 MR. HAWA: Okay.

2 Q. And particularly focusing initially on
3 paragraph number six, which appears on page
4 three, there it is perhaps a way of putting this
5 that would be most appropriate for this
6 situation, a tentative finding or, perhaps looked
7 at another way, an allegation that BOI had
8 engaged -- BOI, meaning Business Options, Inc.
9 had engaged in deceptive business practices in
10 the marketing of its services to Vermont
11 customers.

12 A. Okay.

13 Q. And my question to you is, do you have
14 any knowledge as to what it is these deceptive
15 business practices are supposed to be?

16 A. No.

17 Q. You do not.

18 A. I do not.

19 Q. And moving on to paragraph seven, that
20 paragraph reads, "BOI marketers misrepresented
21 themselves in the purpose of the sales in order

1 to induce Vermont consumers to switch their
2 primary intrastate and/or interstate service
3 providers to BOI in violation of blah-blah." Do
4 you have any idea what it is that is being
5 referred to here in terms of BOI marketers and
6 what they said or didn't say.

7 A. I do not. We did have a situation --
8 I don't know if it was Vermont or Maine -- in
9 which we did not break intrastate and interstate
10 telecommunications into two separate questions on
11 verification one being intralateral and the other
12 interlateral. I don't know if that is what this
13 is referring to or not, but that's the thing that
14 comes to mind.

15 Q. Okay. And what you are thinking of
16 there was some possible problem with the state of
17 Maine.

18 A. It might have been Vermont. I don't
19 know. We were switching intralateral through it,
20 but only having interstate verified.

21 Q. Do you recall having any such problem

1 with the state of Kansas?

2 A. We had a situation in Kansas, but I'm
3 not sure what it was. I'd like to review the
4 documents on the Kansas before answering that.

5 MR. HAWA: Let's put this in context
6 here. So what we're saying here is the
7 stipulation that was entered into with Vermont,
8 which is rather straight forward and generic --

9 MR. SHOOK: Right.

10 MR. HAWA: -- bears little
11 resemblance to the order that came out. And you
12 would have thought there would have been a one
13 page letter saying -- from the board saying we
14 hereby approve the stipulation. Instead, they
15 come out with an order that bears little
16 resemblance of what was stipulated to. And one
17 could only surmise that was the time period that
18 Bill Brzycki left his post.

19 MR. SHOOK: Right.

20 BY MR. SHOOK:

21 Q. There are certainly a number of things

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1 that I guess are left up in the air at this
2 point. I was hoping there might be a logical
3 explanation and perhaps we will find it. But if
4 you don't know, that's fine, we'll just move on.

5 A. Okay.

6 MR. HAWA: And I guess -- Just for
7 further background, I guess we would contest at
8 some point -- I don't know through what vehicle,
9 given the timeliness, but we would contest the
10 lawfulness of this Vermont order in terms of it
11 not being what was stipulated to. An order
12 approving a stipulation that makes findings of
13 fact and conclusions of law that extend far
14 beyond the scope of what was stipulated to is
15 potentially invalid as a matter of law.

16 MR. SHOOK: And I'll leave that to you
17 to hash out with the state of Vermont.

18 WITNESS: All right, I like that man.

19 MR. SHOOK: And if turns out all right
20 and if you can get it thrown out, you can get
21 your 200 customers back.

1 WITNESS: Okay.

2 MR. SHOOK: But we have nothing to say
3 about Vermont, one way or the other.

4 MR. HAWA: We don't understand it,
5 either. We really truly are trying to give you a
6 sense of this. We don't understand what happened
7 between the date he signed the stipulation saying
8 he agreed to exit their market and a month and a
9 half later having an order come out making
10 findings of fact and conclusions of law that are
11 not only in the stipulation but not even
12 referenced in the stipulation.

13 MR. SHOOK: No, one could say that if
14 this had been read closely at the time, it would
15 have been a most unpleasant surprise.

16 MR. HAWA: Right.

17 MR. SHOOK: But be that as it may --

18 BY MR. SHOOK:

19 Q. I'd like to direct your attention to
20 page six of that order. It makes reference to
21 the stipulation, and it also makes reference to

1 Business Options, Inc. will be following the
2 federal procedure set forth in Section 63.71,
3 where the process determines terminating service
4 to customers.

5 A. Okay.

6 Q. Do you know whether anyone in Business
7 Options, Inc. had the responsibility to determine
8 what the federal procedure was for terminating
9 service to the Vermont customers?

10 A. Well, while Mr. Brzycki was there, it
11 would have been his responsibility. Maybe it was
12 too much to ask Miss Dennie to try and figure
13 that out.

14 Q. I think we understand the sequence of
15 events. By the time this order reached you, Mr.
16 Brzycki had already departed.

17 A. Yes. I would have followed up, either
18 myself or maybe Miss Dennie.

19 Q. Do you have any knowledge as to
20 whether or not this order was brought to Miss
21 Dennie's attention?

1 MR. HAWA: I'm sorry, what was the
2 question?

3 MR. SHOOK: I was asking Mr. Kintzel
4 whether or not he had any knowledge that the
5 order that we have been talking about was brought
6 to Miss Dennie's attention.

7 A. It was sent to her on November 25.

8 Q. So in addition to you receiving a fax
9 that included the order, there was a separate
10 letter that was sent to Miss Dennie that included
11 the order as well?

12 A. Yeah.

13 Q. Now, is the letter -- What letter is
14 it that you are referring to?

15 MR. HAWA: It's the one where Vermont
16 thanks Business Options for their cooperative
17 efforts and decides not to pursue penalties
18 because of their cooperation. Do you have that
19 one?

20 MR. SHOOK: I'm not sure that we do.

21 MR. HAWA: I'll show it to you.

1 MR. SHOOK: I think -- I'm sure I've
2 seen it at some point.

3 MR. HAWA: This binder, I think we've
4 copied it in its entirety, Bill. Whatever
5 documents you need, we will be happy to provide.

6 MR. SHOOK: Okay. I'm not sure
7 whether or not that I've seen this before, but
8 that's neither here nor there.

9 MR. HAWA: It makes reference to --
10 The November 26 letter makes reference to another
11 letter that had been sent earlier to Mr. Brzycki.
12 And that other letter, I believe, is the one
13 referenced as attachment I, in our admissions
14 request. It's a November 19, 2002 letter, three
15 pages signed by Sara Hoffman, copied to Amy
16 Dixon, who apparently also had left just about
17 the same time.

18 MR. SHOOK: Yeah.

19 BY MR. SHOOK:

20 Q. Now with respect to the November 19
21 letter that was sent to Mr. Brzycki, could you

1 tell us approximately when this letter came to
2 your attention?

3 A. I don't know if I recall seeing it.

4 Q. In the normal course of events, where
5 would this letter have gone in terms of persons
6 at Business Options?

7 A. It would have gone to corporate
8 affairs, which would be to Mr. Brzycki.

9 Q. And with his departure, it would have
10 gone to whom?

11 A. It would have gone to Miss Dennie.

12 Q. Now, is this the kind of material that
13 Miss Dennie would have brought to your attention
14 in order to discuss with you whatever course of
15 action she should take?

16 A. I suppose she probably should have
17 brought this to my attention. I don't know
18 whether she did or she didn't. In hindsight, I
19 over-estimated the abilities that Miss Dennie
20 brought to the table when she became employed by
21 our group.

1 Q. With respect to Miss Dennie, who was
2 involved in the hiring decision to bring her onto
3 Business Options, Inc.?

4 A. I know I wanted somebody, but I did
5 not do the interviewing of Miss Dennie. I don't
6 know if it was our personnel department, Mr.
7 Chill, or it could have been Keanan. I didn't
8 interview her; I didn't know her background. It
9 was communicated to me that, "Wow, this woman is
10 great. She has had lots of experience, and she
11 is going to be just fine." I didn't ask any
12 other questions. I didn't ask to see her
13 resume'. As a matter of fact, in going through
14 documents this last week, I saw her resume' for
15 the first time. So with the verbal build-up of
16 Miss Dennie, I just thought she would settle
17 right in and start taking care of all this stuff,
18 just like Mr. Brzycki had -- or how I thought he
19 had.

20 So she could have brought it to me; I
21 don't know whether she did or she didn't.